BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matter of	)	
	)	
Unbundling of Local Exchange Carrier	)	RM-8614
Common Line Facilities	)	

REPLY COMMENTS OF LDDS COMMUNICATIONS, INC.

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April 25, 1995

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SUMMARY

LDDS agrees with those parties who recognize that local service competition is possible only if new entrants are able to make use of wholesale LEC network elements on a nondiscriminatory basis. In that sense the MFS proposal for unbundling of local loops is a step in the right direction. The ability to provide local service cannot be limited to those parties, and those situations, where a second loop facility is deployed to a customer premise. First, it will be a long time, if ever, before any carrier besides the LEC has ubiquitous facilities to every home or office. Second, and more important, ownership of a local loop never can be a precondition to a carrier's ability to provide local service. Today hundreds of long distance companies compete with one another. For that same competitive vigor to have any chance of percolating to the local market, those companies and other new entrants must be able to provide local service without the entry barrier of having to deploy their own individual loop facilities.

But the MFS Petition does not go far enough. In the toll market "carrier's carrier" wholesale products are available on a competitive basis that permit immediate market entry on a non-facilities basis. The RBOCs, for example, would be able to use such products to immediately enter the interLATA market if they prove successful in their challenges to the MFJ. But no equivalent product is available that would permit IXCs to enter the local service market as easily and at wholesale prices.

Moreover, the Commission must appreciate the barrier to entry created by local switching. Local switching demand is approximately ten times the size of interLATA demand. LECs already have capacity in place to serve this demand because they switch all local and toll calls today. But it is doubtful whether any IXC, let alone all IXCs, could economically justify overbuilding this switching capacity.

It follows that unless LECs are required to offer carrier's carrier local service products on a nondiscriminatory basis, local service competition will be slow to develop, and will always rest at the mercy of the LECs themselves.

That said, LDDS agrees with the LECs that access reform should proceed to reform the existing pricing mechanisms governing use of the local network by other carriers. We agree with the LECs that it would not be appropriate to excuse MFS or any other class of carriers from their share of the burden of today's over-priced access. Rather, reform should proceed towards a new price structure in which LEC rates move towards cost for every carrier, and all users of the LEC network pay the same nondiscriminatory rates.

LDDS also agrees with CompTel that it is not premature for the Commission to begin considering the regulatory responsibilities of new local service carriers. For example, we agree that customers should not lose their right to equal access when they decide to use a competitor to the incumbent LEC. We also agree that new LECs must not be permitted to charge access rates higher than the already inflated rates of the LECs themselves. LDDS has demonstrated in other

proceedings that local service competition is not the same as access competition -- that even if an end user can choose an alternative local service vendor, once it has done so that vendor has the same bottleneck control over access to that customer as the LEC does today. This problem is being borne out in initial experiences in the states. We agree with CompTel that they also are raised by MFS's unbundling proposals here.

Finally, we agree with the state commissions that many of the issues raised by the MFS Petition present issues falling within their jurisdiction. However, we also believe that the FCC has a leadership role to play in working with the states to achieve the common competitive goals of the nation. This is particularly true given the RBOC pressure to enter the interLATA market. If this is to occur, then appropriate policies and regulatory systems must be in place to permit other carriers to enter the local service market immediately, notwithstanding the fact that for the indefinite future they will be dependent on use of RBOC network facilities.

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LDDS Communications, Inc., d/b/a LDDS Worldcom ("LDDS"), respectfully submits this reply to the comments filed by other parties in response to the above-referenced petition for rulemaking ("Petition") filed by MFS Communications Company, Inc. ("MFS"), on March 7, 1995.

I. LOCAL SERVICE COMPETITION WILL BE DEPENDENT ON USE OF THE LEC NETWORK FOR THE FORESEEABLE FUTURE.

The comments of the LECs in this proceeding represent yet another example of their attempt to stand reality on its head. They argue that Commission action here is unnecessary because competitive alternatives to their local network are readily available. But the simple fact is that local service competition only will proceed if new entrants are permitted to make use of wholesale LEC network services on a nondiscriminatory basis.

As LDDS noted in its initial comments on the Petition, we welcome an examination of actions that the Commission can take to encourage more widespread local service competition in this nation. 1/ Indeed, such competition becomes a matter of even greater urgency if the RBOCs are successful in their current campaign to eliminate MFJ restrictions on the provision of interLATA services. 2/ Barriers to entry into the interLATA market are low, particularly for an RBOC:

- The RBOCs already switch virtually every minute of interLATA traffic originated in their markets, so they will not need to make substantial additional investment in switching capacity.

- The RBOCs already have their own in-region fiber optic networks in place that contain sufficient capacity to handle all interLATA traffic.

- The RBOCs will be able to obtain out-of-region transmission service on a competitive basis choosing among several different national networks. In particular, the RBOCs will be able to use wholesale "carrier's carrier" interLATA service products specifically designed, provisioned -- and most important, priced -- to facilitate retail interLATA service.

As a result, the RBOCs could immediately provide consumers with full-service offerings of both local and long distance service on Day 1 of a post-MFJ world.

There should be no debate that today other carriers have no equivalent opportunity to provide local service in combination with their own long distance services. In part this problem reflects barriers that prevent other carriers from

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1/ See LDDS Comments at 1-2.

2/ LDDS strongly believes that such an action is premature, in part because of the RBOC dominance in the local service market discussed here.

readily deploying their own facilities for local service. But the MFS Petition reflects a much more important problem. For the foreseeable future local service competition can proceed only through substantial use of the preexisting LEC network.

This should surprise no one. The local network always has been viewed as one of the most "natural" of natural monopolies. That preexisting network represents a multi-billion dollar investment by the nation's ratepayers in world-class fiber optic facilities capable of handling all of the nation's local traffic now and for the foreseeable future. This is not to say that it necessarily is inefficient for new entrants to overbuild certain elements of that network. But it clearly would be unsound public policy to make such overbuilding a precondition to a carrier's ability to provide local service (and hence provide "one stop shopping" for both local and long distance).

The MFS request for loop unbundling is a step in the right direction. First, MFS and other parties are correct that a second facilities loop will not be available to most customer premises for an extended period of time. Loops are expensive to construct, and not necessarily economically efficient in many cases.

But second, and more important, true local service competition will depend upon use of LEC network facilities whether or not a second line ever is constructed to a customer premise. The fundamental issue is that ownership and control of a facilities loop can never become a precondition to telecommunications competition. Today hundreds of long distance companies compete freely, sharing use of the monopoly LEC local network to reach their customers. The Commission

hopes to see a future in which that vibrant competition can be extended to the local service market. But this day will never arrive if it depends upon construction of multiple local facilities loops to each customer premise.

For example, we might assume for purposes of argument that in the relatively near term some users may be served by a second loop (assuming fundamental legislative and regulatory changes, as well as adequate regulatory oversight of LEC behavior). However, it generally will be the case that if more than two companies are to provide local service, then the third, and the fourth, and certainly any others, will have to make use of the facilities put in place by the first two. 3/ This fact raises obvious issues concerning the obligations that should be imposed on the second loop vendor to permit access to and resale of its facilities. States are beginning to think about this issue as they examine potential local competition. But for present purposes, what is relevant is that both the second entrant, and certainly every other entrant, will need to look to the incumbent LEC for most of the local facilities they need to provide service.

3/ It remains to be seen how many competitive wireline loops will be constructed in the near term, even assuming legislative and regulatory action to facilitate such construction. Contrary to the suggestions of certain LECs, see, e.g., Bell Atlantic Comments at 9, wireless services are not developed to the point where they can serve as a complete substitute for wireline service in either cost or service quality. For the foreseeable future, customers are likely to retain wireline service, and use a separate wireless service where mobility is required. In any event, it would be vastly premature to establish policies for the wireline market based on an assumption that consumers can or will drop wireline service. For that matter, it is premature to conclude how competitive the market for wireless services will be until PCS is more developed.

This brings us to our major point in this proceeding. LDDS reemphasizes that in its view the MFS proposal does not go far enough. Loop unbundling alone is not sufficient to create active local service competition because it does not address the overwhelming entry barrier presented by local switching. For example, in 1993 interLATA toll traffic totaled 54.0 billion calls. 4/ This means that the IXC switching capacity in place was sized to handle this volume, plus associated call attempts that went uncompleted. Significantly, approximately 65% of that volume was carried by AT&T, suggesting that other IXCs individually each have switching capacity sufficient to handle only a small portion of the total interLATA traffic.

However, toll switching is a relatively small entry barrier to the interLATA market for several reasons. First, and most important, "carrier's carrier" switchless resale products -- wholesale products specifically designed to facilitate interLATA service and priced on a competitive basis near wholesale cost -- permit entry and development of a long distance customer base without any switch investment at all. Second, once a traffic base is established, small IXCs can install and expand switching capacity gradually, in concert with switchless resale, where network savings justify this investment. Third, IXC switch investment is used more efficiently than local switches. An IXC port generally is in use in connection with trunked lines a substantial part of the day. In contrast, a local service provider would need to deploy

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4/ Statistics of Communications Common Carriers, 1993/1994 Edition, Table 2.6, at 22.

switching capacity for every line, even though typically those lines would be inactive the vast majority of the time. Fourth, the economics of long distance service permit interexchange switches to be centralized so as to serve large geographic areas, even if relatively little traffic comes from any one area. This means that an IXC's total interexchange traffic volumes generally can support its total switch investment decisions. Relatively little switching capacity sits idle and not generating revenue for extended periods of the day.

But the local market is entirely different. Most important, traffic volumes differ by several orders of magnitude. We have noted that total interLATA calls in 1993 were approximately 54.0 billion. But total intraLATA toll calls were 23.4 billion, and total local calls were over 444.7 billion. 5/ In other words, IXCs today switch one tenth of the number of calls switched by the LECs, recognizing that LECs switch interLATA calls too as part of access service.

The consequences of these switching statistics for local competition are overwhelming. First, LECs already switch all local traffic and virtually all long distance traffic. They already have in place the massive switching investment necessary to support this enormous traffic load. In contrast, it is questionable whether any single new local service provider ever could be expected to make this magnitude of switching investment, let alone whether multiple entrants would do so.

5/ Id.

It follows that loop unbundling is not the only, or necessarily the most important, precondition to local service competition. Such competition will be stymied if every entrant is forced, as an initial matter, to deploy huge switches capable of handling large volumes of local traffic. The practical result would be enormous barriers to local competition. Indeed, an important empirical question is whether any new entrant could hope to recover its costs and a profit margin for such investment given the preexisting economies of scale of the LEC. 6/

The only solution to this problem is to require LECs to make available a wholesale "carrier's carrier" local service product equivalent to the wholesale "carrier's carrier" products available to entrants in the interexchange market. We do not argue that wholesale, switchless local resale is a substitute for loop unbundling or for other actions to foster facilities-based local competition. But we do contend that without a properly priced and fairly provisioned local "carrier's carrier" product, local service competition will not succeed.

Of course, that wholesale local service product, like the unbundled local loops requested by MFS, will not be subject to material competitive pressures. 7/ Quite the contrary, the LECs will have strong incentives to discriminate in the pricing of both

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6/ We are not suggesting that in some circumstances deployment of switches by new entrants might not be economical. But we question whether such situations would be common compared to the number of places where LEC switching will remain necessary. This is an issue the Commission should investigate more closely.

7/ As a result, some form of price regulation for the LEC wholesale services will remain necessary for the foreseeable future, at least until widespread facilities-based competition becomes a reality.

loops and wholesale local service to diminish the opportunity for other carriers actually to compete in the local service market. It follows that the FCC and the states will need to play a continuing role in regulating LEC wholesale offerings, even assuming that regulation of retail prices to consumers diminishes. 8/

This brings us back to the LEC comments in this docket. We can see why they would oppose any requirement to make their local networks available to their new competitors, just as AT&T resisted resale twenty years ago. But it is frankly absurd to even consider allowing the RBOCs to enter the interLATA market, with its low barriers to entry, without creating equally easy entry to the local service market for the hundreds of interexchange carriers that will have to compete with the RBOCs in a "one stop shopping" environment. The MFS Petition represents only a small step in that direction.

II. COMPREHENSIVE ACCESS REFORM SHOULD PROCEED NOW.

LDDS does support the LECs on one point. The Commission, in conjunction with the states, must proceed to reform the existing pricing mechanisms governing use of the local LEC network by other carriers.

This does not mean that we endorse MFS's proposed solutions. We agree with those parties who observe that MFS is essentially requesting special

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8/ For example, local service competition would be stifled if the wholesale local service price, or the price of local loops, is set in excess of the price the LEC imputes to its own local service. Regulatory oversight to prevent such discrimination will remain critical.

treatment for itself, including exemption from the full burden of today's over-priced access. 9/ The answer is not to give special treatment to certain categories of carriers, but rather to reform the overall interconnection rate structure to ensure that providers of local and interexchange services contribute on an equal and nondiscriminatory basis to meet narrowly defined public policy goals.

LDDS will not repeat its position with respect to access reform here. We would simply reemphasize that in a competitive environment interconnection prices rationally should reflect only the cost of the interconnection service provided. We agree with CompTel and others that it would be unreasonable and inefficient to establish a structure in which local switch investment of some arbitrary magnitude entitled a carrier to a lower interconnection price from the LEC -- yet this is the implication of MFS's proposal. Similarly, the LEC's interconnection rate logically should not depend upon whether the specific call handled by the LEC for an interconnecting carrier is in turn sold by that carrier to consumers as local or long distance. The technical reality is that "interconnection is access and access is interconnection." Distortions in pricing of interconnection will only distort competition and efficient investment.

We fully realize that these pricing problems cross state and federal jurisdiction and may take time to resolve. But the answer is to begin that process now, not further distort the market through special exemptions for certain classes of carriers as MFS proposes.

9/ See, e.g., CompTel Comments at 12-13; Pacific Comments at 4.

III. THE COMMISSION SHOULD BEGIN THE PROCESS OF CONSIDERING THE REGULATORY RESPONSIBILITIES OF NEW ENTRANTS.

LDDS also agrees with CompTel that it is not premature to begin considering the regulatory responsibilities of new local service providers, whether they use their own loop facilities or purchase and resell them from the LEC. 10/ It would be ironic, and poor public policy, if a customer lost its right to access the interexchange carrier of its choice on an equal basis simply because it chose to obtain local service from a new local service company instead of the established LEC. 11/

More generally, the Commission should recognize that the sale of local service to a customer gives the loop vendor bottleneck control over access to that customer required by others. All interexchange carriers must pay the loop vendor to originate and terminate service to this customer. This is true whether the loop vendor is the LEC or a new competitor (and whether the new competitor is reselling the LEC loop or marketing its own facility).

LDDS has discussed this problem in a number of Commission proceedings, most notably the Price Cap Performance Review. We have

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10/ CompTel Comments at 15-18.

11/ We would not expect the new entrant to entirely deny its customer the ability to access a particular carrier. It is more likely that the new entrant would discourage such access through discriminatory technical or access pricing burdens, at least if the new entrant was simultaneously trying to sell the user its own long distance services.

demonstrated that the conventional view that local service competition creates competition for the access business of IXCs, and hence that regulation of the LEC access service can be reduced in these circumstances. Quite the contrary, we observed that LECs and local service providers both will have an incentive to set their respective local service rates low, competing to capture customer control which they can then exploit through high rates charged to IXCs and others who require access to the customer. 12/

LDDS's projections are now beginning to be borne out in the early stages of local service competition. For example, MFS itself has filed intrastate interconnection tariffs in Maryland that simply mirror to the penny the rates of Bell Atlantic. The RBOC has protested these rates, observing that "it would appear that MFS-I is seeking to employ its bottleneck control over access to its end users to subsidize its end user rates." Bell Atlantic goes on to observe that because MFS-I's rates are not currently regulated, MFS has "a potentially unlimited revenue stream" that it can exploit "through captive LEC and IXC customers who must use the MFS-I 'bottleneck' facility to terminate calls to MFS-I end user retail customers." 13/

12/ See Comments of WilTel, Inc., CC Docket No. 94-1, at 14-16 (filed May 9, 1994).

13/ See Letter of Bell Atlantic to the Maryland Public Service Commission regarding MFS Intelenet of Maryland, Inc. Tariff Md. PSC No.2, at 5 (April 17, 1995) (copy attached).

LDDS does not endorse Bell Atlantic's rhetorical tone, but we do agree that the RBOC has identified an example of the failure of local service competition to create access competition. Indeed, the problem goes further because the bottleneck control extends not only to the termination of calls, but to the origination of customer traffic directed to IXCs and other vendors who market services to the customers.

LDDS urges the Commission to recognize that local service competition is not the same thing as access competition -- one does not follow from the other. We believe the first and most important consequence is that the LECs will continue to enjoy market power over interstate access for the foreseeable future. For example, if they lose 5% of their local customer base to new entrants, they will still have just as much market power over access to the remaining 95% as they do today. But we also agree with CompTel that it is not premature to consider the market power of the new entrants as well. In state local competition proceedings we and other parties have argued that, at least initially, simple market rules should apply to the new local service providers. Specifically, those providers should be required to make their services and facilities available for resale, provide customers equal access to other interexchange carriers, and be prohibited from charging more for access than the local LEC.

MFS's loop unbundling proposal directly raises these issues. Much of the LECs' complaints come down to an argument that if MFS resells their local loops, then MFS will capture the access revenue (including interstate access) associated with those loops. The LECs essentially argue for the right to price the

loop to MFS such that they do not suffer a revenue loss when they lose the access revenue. 14/ But IXCs are equally concerned that when MFS sells them access, MFS does not charge even more than the LECs' already excessive rates.

Again, these pricing issues are best addressed in the context of overall access reform. Our main point here is that the Commission should recognize the continuing need for regulation of both the LEC and the new entrant even with, indeed especially with, loop unbundling.

IV. STATES SHOULD PLAY A CENTRAL ROLE IN THIS PROCEEDING.

Several states have complained that the MFS Petition asks the Commission to take actions that fall more properly within the state jurisdiction. This theme also is echoed by the LECs. 15/

We are sympathetic to the front-line experience and responsibility of the states to oversee their local communications market. At the same time, it is clear that unless a comprehensive and coherent structure is put in place for local service competition, both the FCC and the states will fail to meet their policy goals. This is all the more true if RBOC entry into the interLATA market is to be allowed any time in the foreseeable future. In that event barriers to the provision of local

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14/ See, e.g., NYNEX Comments at 8-11.

15/ See, e.g., NARUC Comments at 6-10; Maryland PSC Comments at 2-7; Ameritech Comments at 4-9; Bell Atlantic Comments at 2-8; BellSouth Comments at 15-18; NYNEX Comments at 12-16; Pacific Comments at 1-4.

service already must be down so that all carriers have an equivalent opportunity to compete in the full-service market.

We have explained why local service competition will depend heavily on use of the LEC local network by new entrants -- whether entry is partially through loop unbundling (with limited deployment of local switching capacity), or entirely through a switchless wholesale "carrier's carrier" product. Either way, the FCC and the states together must address the pricing problems inherent in the current interconnection policies of both jurisdictions. Equally important, both the FCC and the states will have a continuing role to ensure that a LEC does not exploit its local network in an anticompetitive fashion against new local service competitors who will require the use of that network -- including both its ubiquitous loops and its enormous switching capacity. It is time to discuss these issues together.

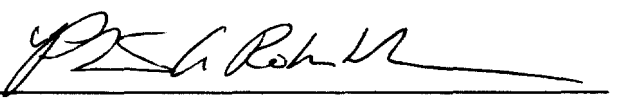
CONCLUSION

The MFS Petition is a useful step toward developing the conditions necessary for meaningful local service competition -- given the dependence of such competition on use of the LEC network. However, for the reasons discussed here and in our initial comments, the Petition marks only a start. We recommend that the Commission proceed, in partnership with the states, to develop policies that make the nation's multi-billion dollar investment in local network facilities a

platform for local service competition, rather than a source of advantage for the LECs alone.

Respectfully submitted,

LDDS COMMUNICATIONS, INC.
d/b/a LDDS Worldcom

By 

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April 25, 1995

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April 17, 1995

BY HAND

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Re: MFS Intelenet of Maryland, Inc.
Tariff Md. P.S.C. No. 2

Dear Mr. Gahagan:

On March 22, 1995, MFS Intelenet of Maryland, Inc. ("MFS-I") refiled its Tariff Md. P.S.C. No. 2 for Switched Access Services to other carriers (the "Tariff"). MFS-I's initial co-carrier tariff was unsupported by any cost data and proposed "an approach that is essentially a cap equivalent to Bell Atlantic, Maryland charges." (2/1/95 Trans. at 121). As Chairman Heintz noted, this approach would "in essence reverse" the Commission's decision in Phase I of the MFS-I case that MFS-I's interconnection rate must be cost supported. (Id.)

MFS-I now has filed what it calls "detailed cost support for [the] Carrier Common Line, Local Transport and Local Switching rate elements" of its Tariff. While MFS-I seeks to leave the impression that it has addressed the concerns associated with its initial filing, the same fundamental issues in fact remain unresolved. MFS-I's "cost support" is a transparent effort -- by including fat overheads, inflated rates of depreciation and a misallocation of investments -- to create a "cost" of interconnection higher than BA-Maryland's. MFS-I's "detailed cost support" is simply a cover for the same mirroring proposal that the Commission rejected in February.

MFS-I's interconnection rate should cover the incremental cost of interconnection, plus a reasonable return. MFS-I's interconnection rate should not be loaded with inappropriate overheads and the costs of providing other services to MFS-I's customers. Accordingly, this Commission should again require MFS-I to file studies which adequately support its rates.

The Cost Study[1]

For reasons that are entirely unclear, MFS-I has failed to perform an incremental cost study to support its interconnection rate. In fact, MFS-I admits that it "does not believe that the costs developed for purposes of this filing constitute a reasonable or efficient basis for setting prices." (Page 17) MFS-I would put the Commission in the awkward position of approving rates based on cost data that MFS-I admits are irrelevant.

There is little doubt that an incremental cost methodology is appropriate for pricing decisions. The question that MFS-I must answer in order to justify its interconnection rate is "What are the additional costs imposed on MFS-I by other carriers who wish to terminate traffic to MFS-I customers?" Instead of seeking to recover this cost, plus a reasonable return, MFS-I is seeking to shift large measures of its costs for other services to the interconnection rate, with absolutely no justification. For instance:

- The cost study includes the overhead costs of MFS-I. The appropriate incremental cost study would not include such overheads. In addition, the overheads used by MFS-I are significantly higher than typical communications companies, an odd situation for a new and purportedly efficient entrant like MFS-I.

- MFS-I includes what it alleges to be its total investments in its switch, land, buildings and the software used by all services.[2] By including these costs, MFS-I is attempting to recover the costs of providing services other than access -- such as Custom Calling Features -- through the interconnection rate. These shared fixed costs and the costs of other services are inappropriate for an access incremental cost study and should be excluded.

- Analysis of the definitions MFS-I used to describe the "lineside" and the "trunkside" of its cost study reveal that MFS-I has incorrectly included a portion of its investment in the customer access line in its access

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[1] In order to avoid the need for a closed administrative hearing, BA-Maryland has not commented on the proprietary figures in MFS-I's cost study. BA-Maryland is willing to join in a more detailed discussion of MFS-I's cost data should the Commission so desire.

[2] The actual amount of these investments is at present unknown and cannot be found in the MFS-I cost data. Some or all of these investments are or have been made by affiliates of MFS-I, rather than MFS-I itself, and it is unclear how -- or even if -- MFS-I will compensate its affiliates for the use of these resources.

analysis. This shifts costs appropriately borne by MFS-I customers to captive interconnectors.

- Instead of using the generally accepted "capacity cost approach" to estimate engineering fills and utilization factors when demand is unknown -- a process Bell Atlantic uses in similar situations -- MFS-I has apparently used its expected actual fills and utilization. By using these lower fill and utilization numbers, MFS-I is seeking to shift to BA-Maryland and other captive interconnection customers the extra costs associated with MFS-I's startup. While BA-Maryland has taken many extra steps to fully and fairly assist MFS-I to get into business, certainly startup risks should be borne by MFS-I's shareholders -- who stand to reap substantial upside benefits -- rather than by BA-Maryland through an inflated interconnection rate.

- MFS-I has decided to include "backhaul" transport costs associated with its decision to locate its switch in Virginia. Although Mr. Ball originally explained during the discussion of MFS-I's first tariff that MFS-I is "not proposing to charge people because [where] we decided to put our switch," that decision apparently has been modified -- MFS-I's customers will not be charged for this decision, but those terminating traffic to MFS-I will be charged for this decision. (2/2/95 Trans. at 22). These charges are inappropriate for an access rate.

- MFS-I has used arbitrarily and unrealistically high depreciation rates -- in critical instances, such as for its switch and for buildings, between 2.5 and nearly 8 times shorter than the commonly accepted lives for these assets. These inflated depreciation rates, which MFS-I justified before the Staff as being necessary to compensate for the "riskiness" of its venture, in turn inflate MFS-I's costs. Appropriate lives should be used instead.

The Mirroring of BA-Maryland's Rates

MFS-I has chosen to set its rates at the lower of its "costs" or BA-Maryland's comparable rates. As a result of MFS-I's inappropriate costing methodology, this generally results in a simple mirroring of BA-Maryland rates. This approach offers no benefits of competition, including lower rates, that MFS-I promised. Mirroring BA-Maryland's rates indicates either that MFS-I has no intention of keeping its promises to deliver those benefits of competition to its customers or that it is abusing its control over terminating access facilities.

MFS-I has again proposed mirroring BA-Maryland's interim local access interconnection rate of $.061 per message. By insisting on charging the same interconnection rate as BA-Maryland, MFS-I, once again, is seeking to overturn this Commission's decision in Order No. 71155 that new entrants in the local exchange

market should pay their fair share of BA-Maryland's shared and common costs of providing ubiquitous telephone service. No support for the costs of the ubiquitous network will flow as long as the interconnection rates are the same in both directions and, therefore, MFS-I will not be living up to its responsibilities to support those costs.

Additionally, MFS-I's proposed interconnection rate will result in a windfall of unearned and undeserved revenues. MFS-I is not providing ubiquitous telephone service in Maryland, or undertaking carrier of last resort responsibilities. Without these responsibilities, MFS-I has no justification to support a $.061 rate. Implementation of this unsupported rate will do nothing more than unfairly subsidize MFS-I's entry into the local phone market.

Collocation

MFS-I has proposed tariff language addressing only the cross-connection element of physically collocated transmission facilities at an MFS-I end office location. MFS-I refers BA-Maryland and other potential collocators to its "MFS Telecom Affiliates" for the other terms and conditions of collocation. MFS-I should not be permitted to effectively shield rates from Commission consideration by using its corporate structure and affiliates. MFS-I should be required to file a meaningful collocation tariff, including all applicable rates for establishing a site at an MFS-I location.

In addition, MFS-I's proposed collocation rates are unreasonably high. MFS-I's rates of $20.54 and $262.40 for DS1 and DS3 cross connects compare to BA-Maryland rates of $22.54 and $207.24, respectively. BA-Maryland's rates, however, are for virtual collocation, and therefore include BA-Maryland's maintenance of the virtually collocated equipment. MFS-I's rates, on the other hand, are for physical collocation and collocators are required to maintain their own equipment.

Carrier Common Line and Residual Interconnection Charge

BA-Maryland's intrastate Carrier Common Line Charge (CCLC) and Residual Interconnection Charge (RIC) are contribution elements which provide support to universal service. As discussed above, MFS-I proposes and accepts no universal service obligation and is therefore not entitled to any associated recovery.[3]

[3] It is important to correct a factual error on page 13 of MFS-I's Description and Justification of Rates for Switched Access Services. MFS-I notes, incorrectly, that "BA-Maryland's common transport rates are not designed to recover the total costs of its services" and that any shortfall is recovered by the interconnection charge element. All of BA-Maryland's local transport rate elements are priced above costs. The interconnection charge is a subsidy element designed to support universal service.